

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	Docket No. 95 C 4194
v.)	
)	
INTERSTATE BAKERIES CORPORATION,)	Judge Manning
and CONTINENTAL BAKING COMPANY,)	
)	
Defendants.)	

**UNITED STATES' MOTION FOR AN ORDER TO SHOW CAUSE
WHY DEFENDANT INTERSTATE BAKERIES CORPORATION
SHOULD NOT BE HELD IN CIVIL CONTEMPT OF COURT**

The United States, by its attorneys acting under the direction of the Attorney General, pursuant to Local Rule 18 and the Court's Final Judgment entered in this matter on January 9, 1996, respectfully moves for an order to show cause why Interstate Bakeries Corporation ("IBC") should not be found in civil contempt of the Court's Final Judgment, and in support of its motion states as follows:

1. The Court entered a Final Judgment on January 9, 1996 that required IBC to divest one of its labels, including formulas and production knowhow, in order to establish a viable competitor in Southern California.
2. After numerous delays, in September 1997 IBC complied with the Final Judgment and licensed the Weber's label to Good Stuff Food Company (n/k/a Four-S Baking Company, hereinafter "Four-S"). The Final Judgment makes the license to use the label perpetual, assignable, and transferable.
3. In or around August 1998, Four-S decided to seek a purchaser for its business. IBC learned of the proposed sale and filed a motion with this Court seeking permission to re-

acquire the assets it had divested less than two years earlier to Four-S. Four-S, however, chose not to wait for IBC's proposal but instead elected to enter into an agreement and plan of merger with another company, Bimbo Bakeries USA, Inc. ("Bimbo").

4. Four-S formally notified IBC of the perspective change in ownership on March 17, 1999, and, to the extent required by its contract with IBC, requested its consent to the assignment of the formulas and production processes to Four-S under its new ownership.

5. IBC wrote to Four-S on March 26, 1999, demanding the return of the formulas and production processes to manufacture Weber's bread and threatening to sue if Four-S disclosed or used the formulas and production processes to manufacture Weber's bread once Bimbo owned Four-S.

6. Although Four-S and Bimbo consummated their merger on March 29, 1999, Four-S did not continue to use the formulas and production processes to manufacture Weber's bread. The information was put in a bank safe and Four-S began production based on formulas and knowhow provided by Bimbo.

7. IBC's actions resulted in increased costs and risks for Four-S and hampered its ability to compete in the white pan bread market in Southern California.

8. IBC's actions are in contempt of this Court's Final Judgment, which required IBC to divest the Weber's label, formulas and production knowhow.

Wherefore, for the foregoing reasons, and as set forth more fully in its Memorandum in support of this motion, including supporting affidavits, the United States respectfully requests that the Court enter an order to show cause why IBC should not be found in civil contempt and prays for the following relief:

- A. holding IBC in civil contempt;
- B. directing IBC to comply with the Final Judgment by providing to Bimbo/Four-S the information required in Paragraph IV.A of the Final Judgment;
- C. fining IBC for each day that it fails to comply with the Final Judgment, in a sum not to exceed \$10,000 a day;
- D. awarding to the United States its attorneys fees and costs incurred in making this motion; and
- E. granting any and all other relief deemed justified by the Court.

Dated: April 12, 1999

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:

_____/s/_____
J. Robert Kramer II
Chief, Litigation II Section

_____/s/_____
Arnold C. Celnicker (Georgia Bar. 118050)
Anthony Harris (Illinois Bar No. 01133713)
Tara M. Shinnick (Florida Bar. No 993263)
Trial Attorneys
U.S. Department of Justice
Antitrust Division
1401 H Street, N.W., Suite 3000
Washington, DC 20530
(202) 514-2474
(202) 307-6283 (facsimile)